



The Restriction of Habitual Offenders (Punjab) Act, 1918

Act 5 of 1918

Keyword(s):

Order of Restriction, Restrict Movement, Habitual Offender, Good Behaviour

Amendment appended: 14 of 2004

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'THE RESTRICTION OF HABITUAL OFFENDERS
(PUNJAB) ACT, 1918

PUNJAB ACT 5 OF 1918

[Received the assent of the Lieutenant-Governor of the Punjab on the 14th March, 1918, and that of the Governor-General on the 2nd April, 1918, and was first published ²in the Punjab Gazette, of the 26th April, 1918.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation
1918	5	The Restriction of Habitual offenders (Punjab) Act, 1918	Amended, Government of India (Adaptation of Indian Laws) Order, 1937. Amended by East Punjab Act 21 of 1949 ¹ . Amended by Adaptation of Laws Order, 1950. Amended by Adaptation of Laws (Third Amendment) Order, 1951. Extended to the territories which immediately before the 1st November, 1956, were comprised in the State of Patiala and East Punjab States Union by Punjab Act 23 of 1960 ² . Amended by Punjab Act 25 of 1964 ³ . Amended by Haryana Adaptation of Laws (State and Concurrent Subjects) Order, 1968 ⁴ .

1. For Statement of Objects and Reasons, see *Punjab Gazette*, 1918, Part V, pages 53 to 55, for Report of Select Committee, see *Punjab Gazette*, Part V, pages 59—63, for Proceedings in Council, see *ibid*, Part V, 1918, pages 15—21, 109—130, and 132—150.
2. See *Punjab Gazette*, 1918, Part V, pages 340 to 342.
3. For Statement of Objects and Reasons see *East Punjab Gazette*, 1949 (Extraordinary), p. 966; and for Proceedings in Assembly see East Punjab Legislative Assembly Debates, Vol. IV, Pages 1 (44) and 1 (45).
4. For Statement of Objects and Reasons, see *Punjab Gazette* [Extraordinary], 1960, page 594.
5. For Statement of Objects and Reasons, see *Punjab Gazette* [Extraordinary], 1964, pages 935—37.
6. For Statement of Objects and Reasons, see *Haryana Gazette* [Extraordinary], dated 29th October, 1968.

An Act for restricting the movements of habitual offenders in [Haryana] and for requiring them to report themselves.

WHEREAS it is expedient to make provision for restricting the movements of habitual offenders in 'Haryana and requiring habitual offenders in 'Haryana to report themselves, and whereas the previous sanction of the Governor-General in Council has been obtained under section 79(2) of the Government of India Act, 1915, to the passing of this Act : It is hereby enacted as follows :—

Title and extent. 1. (a) This Act may be called the Restriction of Habitual Offenders (Punjab) Act, 1918.

(b) It extends to [Haryana].

Scope of order of restriction. 2. An "Order of restriction" passed under this Act may restrict a person in his movements to any area prescribed in the order; or

it may require a person to report himself at times and places and in the mode prescribed in the order; or it may do both.

Order of restriction against habitual offenders. 3. (a) In any case in which a Magistrate may under the provisions of section 110 of the Code of Criminal Procedure, 1898, as it is at present enacted or as it may from time to time be amended, require a person to show cause why he should not be ordered to execute a bond for his good behaviour, the Magistrate may in lieu of or in addition to so doing require such person to show cause why an order of restriction should not be made against him.

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1898.

Joint proceedings and record. (b) If the Magistrate in addition to requiring such person to show cause why he should not be ordered to execute a bond for his good behaviour, requires him to show cause why an order of restriction should not be made against him, the proceedings in respect of the order of restriction may be taken jointly with the proceedings in respect of security and may be entered in and form part of the same record.

I. Substituted for the word "Punjab" by the Adaptation of Laws Order, 1968.

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1898.

4. When a Magistrate deems it necessary to require a person to show cause why an order of restriction should not be made against him, he shall follow as nearly as may be the procedure laid down in sections 112, 113, 114, 115, and 117 of the Code of Criminal Procedure, 1898.

Procedure in
making order of
restriction.

Provided that—

(1) the order in writing referred to in section 112 of the said Code shall in addition to setting forth the substance of the information received state the term not exceeding three years during which the order of restriction shall be in force; but it need not state whether the order of restriction shall be an order restricting the person to any area or requiring him to report himself or doing both; and

(2) for the purposes of section 117(2) of the said Code an order of restriction shall be deemed to be equivalent to an order requiring security for good behaviour.

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1898.

5. The provisions of section 90 of the Code of Criminal Procedure, 1898, shall be applicable to proceedings under this Act as if they were proceedings under the said Code.

Issue of warrant
in lieu of or in
addition to
summons.

6. If upon enquiry made in accordance with the preceding sections the Magistrate is of opinion that no order of restriction is necessary, the Magistrate shall make an entry to that effect on the record, and if he does not order the execution of a bond for good behaviour he shall if such person is in custody only for purposes of the enquiry release him or if such person is not in custody discharge him.

Discharge of
person informed
against.

7. If upon enquiry as aforesaid the Magistrate is of opinion that an order of restriction should be made against any person in respect of whom the enquiry is being made, the Magistrate shall make an order accordingly.

Making or order
of restriction.

* * * * *

Particulars to be specified in order of restriction.

In his order under this section the Magistrate shall state whether the said person shall be restricted in his movements or shall be required to report himself, or both. The order shall conform to any rules made by the [State] Government under section 16 and shall specify the area and the nature of the restrictions to be imposed and the places and the times and mode of report, as the case may be.

No order of restriction shall be for a term exceeding three years or for a term longer than that specified in the order under section 4.

Order of restriction under section 123 (3) of Criminal Procedure Code.

Order of restriction against convicted offender.

Means of livelihood within area of restriction.

Change of area where means of livelihood are insufficient.

8. (1) An order passed by a Sessions Judge under section 123(3) of the Code of Criminal Procedure, 1898, may ²[be in addition to] an order of restriction for the same or a less period.

(2) In any case in which a Court or Magistrate is empowered to take action against any convicted person under section 565 of the Code of Criminal Procedure, 1898, such Court or Magistrate may if it or he thinks fit at the time of passing sentence on such person and in lieu of passing an order under the said section make an order of restriction against such person for a period not exceeding three years from the date of the expiry of such sentence.

(3) If such conviction is set aside on appeal or otherwise, such order shall become void.

9. (1) No order shall be made restricting any person to any area unless the Court or Magistrate making the order is satisfied that such person has adequate means of earning his livelihood within the area of restriction :

Provided that before making such order the Court or Magistrate shall record and consider any objection which such person may urge in regard to the area proposed.

(2) If at any time any person against whom an order of restriction has been passed under this Act satisfies the Court or Magistrate passing the order or the District Magistrate that

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1. Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
2. Substituted for the words "substitute for an order requiring security", by East Punjab Act XXI of 1949, section 3.

he has no sufficient means of earning his livelihood within the area to which he is restricted the Court or Magistrate shall change the area.

10. The District Magistrate may at any time for sufficient reasons to be recorded in writing cancel any order of restriction passed by any Court having jurisdiction in his district.

Power to cancel
order of
restriction.

11. The District Magistrate may at any time change the area to which the movements of any person have been restricted by an order of restriction passed under this Act :

Power to vary
area of
restriction.

Provided that such person shall be given an opportunity of showing cause why such change should not be made.

12. When an order requiring security for good behaviour has been made against any person under section 118 of the Code of Criminal Procedure, 1898, by any Court whether before or after this Act comes into force, the District Magistrate may at any time before the period of security has expired ¹[make in addition] an order of restriction :

Power to add
order of
restriction to
bond for good
behaviour.

Provided that—

- (a) the period of the order of restriction shall not exceed the unexpired period of security; and
- (b) no order of restriction shall be passed against any person under this section until he has been given an opportunity of showing cause why such order should not be passed.

²[13. Any person against whom an order or restriction has been passed under this Act, may prefer an appeal,—

Appeal.

- (a) to the District Magistrate, if such order has been made by an Executive Magistrate subordinate to him ;
- (b) to the Chief Judicial Magistrate, if such order has been made by a Judicial Magistrate subordinate to him ;

1. Substituted for the words "substitute therefor" by East Punjab Act, 21 of 1949, section 4.

2. Substituted by Punjab Act 25 of 1964, section 2, Schedule, Part III.

- (c) to the court of Session, if such order has been made by the District Magistrate or the Chief Judicial Magistrate ;
- (d) to the High Court, in any other case.]

Applicability of
the Code of
Criminal
Procedure to
appeals and
revisions.

Arrest of person
found beyond
prescribed limits.

14. The provisions of the Code of Criminal Procedure, 1898, shall be applicable to appeals and petitions of revision under this Act as if they were appeals and petitions of revision presented under the said Code.

V of
1898.

15. (1) If any person against whom an order of restriction under this Act has been passed is found in any place beyond the area to which his movements have been restricted, without the pass prescribed by the rules made under this Act, or at a time or in a place not permitted by the conditions of his pass, he may be arrested without warrant by any police officer, zaildar, inamdar, village headman or village watchman.

(2) Any person, not being a police officer, making an arrest under this section shall without unnecessary delay make over the person so arrested to a police officer, or, in the absence of a police officer, take or send such person to the nearest police station.

Power to make
rules.

16. The [State] Government may make rules to provide for and regulate—

- (i) the areas to which persons may be restricted under this Act and the nature of the restrictions to be observed by them ;
- (ii) the times and places at which and the mode in which persons shall report themselves when required to do so under this Act ;
- (iii) the conditions as to holding passes under which persons may be permitted to leave the area to which their movements have been restricted ;
- (iv) the conditions to be inserted in any such pass in regard to—

1. Substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

- (a) the places to which the holder of the pass may or may not go;
- (b) the persons before whom from time to time he shall be bound to present himself; and
- (c) the time during which he may be absent.

17. (1) Whoever being a person against whom an order of restriction under this Act has been passed violates such order or any rule made under this Act, shall on conviction by a [Judicial Magistrate] of the first class be punished—

Penalties.

- (a) on a first conviction with imprisonment of either description for a term which may extend to one year, or with fine, or with both;
- (b) on a second conviction with imprisonment of either description for a term which may extend to two years;
- (c) on any subsequent conviction with imprisonment of either description for a term which may extend to three years.

(2) In computing the period for which an order of restriction shall remain in force, any period of imprisonment undergone in execution of a sentence passed under sub-section (1) of this section shall be excluded.

Period of
imprisonment to
be excluded from
period of order of
restriction.

1. Substituted for the word "Magistrate" by Punjab Act, 25 of 1964, section 2, Schedule.



LEGISLATIVE DEPARTMENT

Notification

The 8th July, 2004

No. Leg. 16/2004.— The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 5th July, 2004, and is hereby published for general information :—

Haryana Act No. 14 of 2004**THE RESTRICTION OF HABITUAL OFFENDERS (PUNJAB)****HARYANA REPEAL ACT, 2004**

An

ACT

*to repeal the Restriction of Habitual Offenders (Punjab) Act, 1918,
in its application to the State of Haryana.*

Be it enacted by the Legislature of the State of Haryana in the Fifty-fifth Year of the Republic of India, as follows :—

Short title.

1. This Act may be called the Restriction of Habitual Offenders (Punjab) Haryana Repeal Act, 2004.

Repeal and saving.

2. The Restriction of Habitual Offenders (Punjab) Act, 1918 (Punjab Act No. 5 of 1918), is hereby repealed :

Provided that such repeal shall not affect—

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed :

Provided further that anything done or any action taken under the Act so repealed shall be deemed to have been done or taken under this Act. and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

R. S. MADAN,
Secretary to Government, Haryana,
Legislative Department.